

ALEX G. TSE (CABN 152348)  
United States Attorney

THOMAS MOORE (ALBN 4305-O78T)  
Assistant United States Attorney  
Chief, Tax Division

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102-3495  
Telephone: (415) 436-7017  
Facsimile: (415) 436-7009

Attorneys for United States of America

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,	)	No.
	)	
Plaintiff,	)	
	)	COMPLAINT
v.	)	
	)	
VINCENT J. KILDUFF,	)	
	)	
Defendant.	)	

Now comes the United States of America, by and through its undersigned counsel, complains and alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action brought by the United States to reduce to judgment outstanding federal tax assessments against defendant VINCENT J. KILDUFF.

2. This action is commenced pursuant to Sections 7401 and 7402 of the Internal Revenue Code of 1986, at the direction of the Attorney General of the United States, with the authorization and sanction, and at the request of the Division Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury.

3. Jurisdiction over this action is conferred upon this Court by Title 28, United States Code, Sections 1340 and 1345, and under Section 7402(a) of the Internal Revenue Code of 1986.

4. Venue is proper in the Northern District of California because at the time the liabilities

accrued, defendant taxpayer, VINCENT J. KILDUFF resides within this judicial district. 28 U.S.C., Sections 1391 and 1396.

#### IDENTIFICATION OF DEFENDANTS

5. Defendant VINCENT J. KILDUFF resides at 15119 Union Avenue, San Jose, California, which is within the jurisdiction of this Court.

#### REDUCE INCOME TAX ASSESSMENTS TO JUDGMENT

6. The United States realleges the allegations in paragraphs 1 through 5 above, as if fully set forth herein.

7. A delegate of the Secretary of the Treasury made assessments against VINCENT J. KILDUFF for unpaid federal income taxes (Form 1040), penalties and interest as set forth below:

TAX YEAR	TAX ASSESSMENT DATES	ASSESSED INCOME TAX AMOUNTS	UNPAID BALANCE OF TAXES PENALTIES AND INTEREST AS OF December 21, 2018
2006	1/12/2009	\$ 23,556.00	\$ 25,707.67
2008	12/28/2009	\$ 34,376.00	\$ 48,062.60

8. Despite timely notice and demand for payment of the taxes, penalties, and interest described in paragraph 7 above, defendant VINCENT J. KILDUFF has neglected, failed, or refused to pay the taxes, penalties and interest described in paragraph 7 above, and there remains due and owing on said assessments, as of December 21, 2018, the sum of \$73,770.27, plus accrued interest and penalties and other statutory additions as provided by law, minus any credits.

WHEREFORE, the plaintiff, United States of America, prays for the following relief:

1. That this Court determine and adjudge that VINCENT J. KILDUFF is personally liable to the United States for the sum of \$73,770.27, plus interest and statutory additions, as provided by law, that have accrued, and continue to accrue, since December 21, 2018 until paid; and that a judgment in that amount be entered against VINCENT J. KILDUFF and in favor of the United States of America;

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2. That the United States of America be granted its costs and attorneys' fees; and,
3. For such other and further relief as is just and proper.

Respectfully submitted,

ALEX G. TSE  
United States Attorney

/s/ Thomas Moore  
THOMAS MOORE  
Assistant United States Attorney  
Chief, Tax Division

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
  
**(b)** County of Residence of First Listed Plaintiff  
*(EXCEPT IN U.S. PLAINTIFF CASES)*  
  
**(c)** Attorneys *(Firm Name, Address, and Telephone Number)*

**DEFENDANTS**  
  
County of Residence of First Listed Defendant  
*(IN U.S. PLAINTIFF CASES ONLY)*  
  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.  
  
Attorneys *(If Known)*

**II. BASIS OF JURISDICTION** *(Place an "X" in One Box Only)*  
  
1 U.S. Government Plaintiff      3 Federal Question  
*(U.S. Government Not a Party)*  
  
2 U.S. Government Defendant      4 Diversity  
*(Indicate Citizenship of Parties in Item III)*

**III. CITIZENSHIP OF PRINCIPAL PARTIES** *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	5	5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6

**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment Of Veteran's Benefits 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excludes Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise	<b>PERSONAL INJURY</b> 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury -Medical Malpractice  <b>CIVIL RIGHTS</b> 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/ Accommodations 445 Amer. w/Disabilities-- Employment 446 Amer. w/Disabilities--Other 448 Education	<b>PERSONAL INJURY</b> 365 Personal Injury -- Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability  <b>PRISONER PETITIONS</b> <b>HABEAS CORPUS</b> 463 Alien Detainee 510 Motions to Vacate Sentence 530 General 535 Death Penalty  <b>OTHER</b> 540 Mandamus & Other 550 Civil Rights 555 Prison Condition 560 Civil Detainee-- Conditions of Confinement	625 Drug Related Seizure of Property 21 USC § 881 690 Other  <b>LABOR</b> 710 Fair Labor Standards Act 720 Labor/Management Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> 462 Naturalization Application 465 Other Immigration Actions	422 Appeal 28 USC § 158 423 Withdrawal 28 USC § 157  <b>PROPERTY RIGHTS</b> 820 Copyrights 830 Patent 835 Patent--Abbreviated New Drug Application 840 Trademark  <b>SOCIAL SECURITY</b> 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS--Third Party 26 USC § 7609	375 False Claims Act 376 Qui Tam (31 USC § 3729(a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced & Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 850 Securities/Commodities/ Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes

**V. ORIGIN** *(Place an "X" in One Box Only)*

1 Original Proceeding	2 Removed from State Court	3 Remanded from Appellate Court	4 Reinstated or Reopened	5 Transferred from Another District <i>(specify)</i>	6 Multidistrict Litigation--Transfer	8 Multidistrict Litigation--Direct File
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**VI. CAUSE OF ACTION** Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*  
  
Brief description of cause:

**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

**VIII. RELATED CASE(S), IF ANY** *(See instructions):* JUDGE DOCKET NUMBER

**IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)**  
*(Place an "X" in One Box Only)* SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

**Authority For Civil Cover Sheet.** The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
  - c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
  - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
  - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
  - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
  - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
  - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
  - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
  - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket.
- Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”

**Date and Attorney Signature.** Date and sign the civil cover sheet.